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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/720,005

11/21/2003

Matthew Howard Fronk

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3992

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09/15/2009

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EXAMINER

DOVE, TRACY MAE

ART UNIT

PAPER NUMBER

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MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MATTHEW HOWARD FRONK; RODNEY LYNN BORUP;
JAY S. HULETT; BRIAN K. BRADY; KEVIN M. CUNNINGHAM

Reissue Application 10/720,005
Patent 6,372,376
Technology Center 1700

Mailed: September 15, 2009

Before LYNN M. KRYZA, *Deputy Chief Trial Administrator*.

ORDER RETURNING UNDOCKETED APPEAL

This reissue application was electronically received by the Board of Patent Appeals and Interferences on September 14, 2009. A review of the reissue application revealed that it is not ready for docketing as an appeal. Accordingly, the reissue application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

REISSUE AMENDMENTS, SUPPLEMENTAL DECLARATION REQUIRED

The Amendments dated *September 26, 2005; October 17, 2007; February 12, 2008 and June 30, 2008* do not appear to have been accompanied by a supplemental reissue declaration. Whenever claims are amended or added, a supplemental reissue declaration is required pursuant to MPEP 1414.01. Form PTO/SB/51S, “Supplemental Declaration For Reissue Patent Application To Correct ‘Errors’ Statement ([see] 37 C.F.R. § 1.175(b)(1)),” may be used to prepare a supplemental reissue declaration. Form PTO/SB/51S serves to indicate that every error in the patent that was corrected in the reissue application, but was not covered by a prior reissue oath/declaration submitted in the reissue application, arose without any deceptive intention on the part of the applicant.

REJECTION OF ALL THE REISSUE CLAIMS UNDER 35 U.S.C. 251

It does not appear that the Examiner has included in an Office action the appropriate rejection of all the reissue claims under 35 U.S.C. 251, as being based upon a defective reissue declaration, and the requirement of a supplemental reissue declaration signed by the reissue applicant to overcome such rejection. See MPEP § 1414.01 and MPEP § 1444 for details.

CONCLUSION

Accordingly, it is

ORDERED that the application be returned to the examiner for the following:

- 1) mail a communication setting forth the appropriate rejection of all the reissue claims under 35 U.S.C. 251, as being based upon a defective reissue declaration, and the requirement of a supplemental reissue declaration signed by the reissue applicant to overcome such rejection, per MPEP 1414.01 and MPEP § 1444; and,
- 2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

LMK/MAT

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